

#### § 3103.4

(b) Minimum royalties shall not be prorated for any lands in which the United States owns a fractional interest but shall be payable on the full acreage of the lease.

(c) Minimum royalties and rentals on non-participating acreage shall be payable to the Service.

(d) The minimum royalty provisions of this section shall be applicable to leases reinstated under § 3108.2-3 of this title and leases issued under § 3108.2-4 of this title.

[48 FR 33662, July 22, 1983, as amended at 49 FR 11637, Mar. 27, 1984; 49 FR 30448, July 30, 1984; 53 FR 22838, June 17, 1988]

#### § 3103.4 Production incentives.

##### § 3103.4-1 Royalty reductions.

(a) In order to encourage the greatest ultimate recovery of oil or gas and in the interest of conservation, the Secretary, upon a determination that it is necessary to promote development or that the leases cannot be successfully operated under the terms provided therein, may waive, suspend or reduce the rental or minimum royalty or reduce the royalty on an entire leasehold, or any portion thereof.

(b)(1) An application for the benefits under paragraph (a) of this section must be filed by the operator/payor in the proper BLM office. The application must contain the serial number of the leases, the names of the record title holders, operating rights owners (sub-lessees), and operators for each lease, the description of lands by legal subdivision and a description of the relief requested.

(2) Each application shall show the number, location and status of each well drilled, a tabulated statement for each month covering a period of not less than 6 months prior to the date of filing the application of the aggregate amount of oil or gas subject to royalty, the number of wells counted as producing each month and the average production per well per day.

(3) Every application shall contain a detailed statement of expenses and costs of operating the entire lease, the income from the sale of any production and all facts tending to show whether the wells can be successfully operated upon the fixed royalty or rental. Where

#### 43 CFR Ch. II (10-1-14 Edition)

the application is for a reduction in royalty, full information shall be furnished as to whether overriding royalties, payments out of production, or similar interests are paid to others than the United States, the amounts so paid and efforts made to reduce them. The applicant shall also file agreements of the holders to a reduction of all other royalties or similar payments from the leasehold to an aggregate not in excess of one-half the royalties due the United States.

(c) Petition may be made for reduction of royalty under § 3108.2-3(f) for leases reinstated under § 3108.2-3 of this title and under § 3108.2-4(i) for non-competitive leases issued under § 3108.2-4 of this title. Petitions to waive, suspend or reduce rental or minimum royalty for leases reinstated under § 3108.2-3 of this title or for leases issued under § 3108.2-4 of this title may be made under this section.

[48 FR 33662, July 22, 1983; 48 FR 39225, Aug. 30, 1983, as amended at 49 FR 30448, July 30, 1984; 53 FR 17354, May 16, 1988; 57 FR 35973, Aug. 11, 1992; 61 FR 4750, Feb. 8, 1996; 75 FR 61626, Oct. 6, 2010]

##### § 3103.4-2 Stripper well royalty reductions.

(a) Certification. The applicable royalty rate shall be used by the operator/payor when submitting the required royalty reports/payments to ONRR. By submitting royalty reports/payments using the royalty rate reduction benefits of this program, the operator certifies that the production rate for the qualifying and subsequent 12-month period was not subject to manipulation for the purpose of obtaining the benefit of a royalty rate reduction, and the royalty rate was calculated in accordance with the instructions and procedures in these regulations.

(b) *Record retention.* For seven years after production on which the operator claims a royalty rate reduction for stripper well properties, the operator must retain and make available to BLM for inspection all documents on which the calculation of the applicable royalty rate under this section relies.

(c) Agency action. If a royalty rate is improperly calculated, the MMS will calculate the correct rate and inform the operator/payors. Any additional

## Bureau of Land Management, Interior

## § 3103.4–4

royalties due are payable immediately upon notification. Late payment or underpayment charges will be assessed in accordance with 30 CFR 218.102. The BLM may terminate a royalty rate reduction if it is determined that the production rate was manipulated by the operator for the purpose of receiving a royalty rate reduction. Terminations of royalty rate reductions will be effective on the effective date of the royalty rate reduction resulting from the manipulated production rate (i.e., the termination will be retroactive to the effective date of the improper reduction). The operator/payor shall pay the difference in royalty resulting from the retroactive application of the unmanipulated rate. Late payment or underpayment charges will be assessed in accordance with 30 CFR 218.102.

[48 FR 33662, July 22, 1983; 48 FR 39225, Aug. 30, 1983, as amended at 49 FR 30448, July 30, 1984; 53 FR 17354, May 16, 1988; 57 FR 35973, Aug. 11, 1992. Redesignated at 61 FR 4750, Feb. 8, 1996; 70 FR 53074, Sept. 7, 2005; 75 FR 61626, Oct. 6, 2010]

### § 3103.4–3 Heavy oil royalty reductions.

(a) *Certification.* The operator/payor must use the applicable royalty rate when submitting the required royalty reports/payments to the Minerals Management Service (MMS). In submitting royalty reports/payments using a royalty rate reduction the operator/payor must certify that the API oil gravity for the initial and subsequent 12-month periods was not subject to manipulation or adulteration and the royalty rate was determined in accordance with the requirements and procedures.

(b) *Agency action.* If an operator/payor incorrectly calculates the royalty rate, the BLM will determine the correct rate and notify the operator/payor in writing. Any additional royalties due are payable to MMS immediately upon receipt of this notice. Late payment or underpayment charges will be assessed in accordance with 30 CFR 218.102. The BLM will terminate a royalty rate reduction for a property if BLM determines that the API oil gravity was manipulated or adulterated by the operator/payor. Terminations of royalty rate reductions for individual properties will be effective

on the effective date of the royalty rate reduction resulting from a manipulated or adulterated API oil gravity so that the termination will be retroactive to the effective date of the improper reduction. The operator/payor must pay the difference in royalty resulting from the retroactive application of the non-manipulated rate. The late payment or underpayment charges will be assessed in accordance with 30 CFR 218.102.

[61 FR 4750, Feb. 8, 1996, as amended at 75 FR 61626, Oct. 6, 2010]

### § 3103.4–4 Suspension of operations and/or production.

(a) A suspension of all operations and production may be directed or consented to by the authorized officer only in the interest of conservation of natural resources. A suspension of operations only or a suspension of production only may be directed or consented to by the authorized officer in cases where the lessee is prevented from operating on the lease or producing from the lease, despite the exercise of due care and diligence, by reason of *force majeure*, that is, by matters beyond the reasonable control of the lessee. Applications for any suspension shall be filed in the proper BLM office. Complete information showing the necessity of such relief shall be furnished.

(b) The term of any lease shall be extended by adding thereto the period of the suspension, and no lease shall be deemed to expire during any suspension.

(c) A suspension shall take effect as of the time specified in the direction or assent of the authorized officer, in accordance with the provisions of § 3165.1 of this title.

(d) Rental and minimum royalty payments shall be suspended during any period of suspension of all operations and production directed or assented to by the authorized officer beginning with the first day of the lease month in which the suspension of all operations and production becomes effective, or if the suspension of all operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. Rental and minimum royalty